

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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GARY LABARBERA, and THEODORE KING,  
as Trustees and Fiduciaries of the Local 282  
Welfare Trust Fund, the Local 282 Pension  
Trust Fund, the Local 282 Annuity Trust Fund,  
the Local 282 Job Training Trust Fund, and the  
Local 282 Vacation and Sick Leave Trust Fund,

Plaintiffs,

-against-

**ORDER**  
04-cv-05319-ADS-ETB

HORWITH TRUCKS, INC.,

Defendants.

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**APPEARANCES:**

**COHEN WEISS & SIMON**

Co-counsel for the plaintiffs

330 West 42nd Street

New York, NY 10036

By: Michael L. Winston, Esq., of Counsel.

**NO APPEARANCE:**

Defendant Horwith Trucks, Inc.

**SPATT, District Judge.**

On January 30, 2006, a default judgment was entered against the defendant Horwith Trucks, Inc., and this matter was referred to United States Magistrate Judge E. Thomas Boyle for a Report and Recommendation ("Report") to determine the amount of damages to be awarded to the plaintiffs. On July 19, 2006, Judge Boyle

issued a Report, recommending that the plaintiffs be awarded damages against Horwith Trucks, Inc., as follows: (1) additional contributions in the amount of \$21,532.32; (2) interest totaling \$5,951.22; (3) liquidated damages in the amount of \$5,951.22; and (4) attorney's fees of \$7,478.75, for a total monetary award of \$40,913.51.

To date, there have been no objections filed to the Report. In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. §636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)); see also Pizarro v. Bartlett, 776 F. Supp. 815, 817 (S.D.N.Y. 1991).

The Court has reviewed the Report and finds it to be thorough and clearly analyzed, with no clear errors of fact or law. There being no objection to Judge Boyle's Report, it is hereby

**ORDERED**, that Judge Boyle's Report and Recommendation is adopted in its entirety; and it is further

**ORDERED**, that the plaintiff be awarded the total amount of \$40,913.51 against the defendant Horwith Trucks, Inc., based on the sums outlined above, and it is further;

**ORDERED**, that the Clerk of the Court is directed to enter a judgment in favor of the plaintiffs and against the defendant Horwith Trucks, Inc., in the above amount; and it is further

**ORDERED**, that the Clerk of the Court is directed to close this case.

**SO ORDERED.**

Dated: Central Islip, New York  
August 8, 2006

/s/ Arthur D. Spatt  
ARTHUR D. SPATT  
United States District Judge